

**NOTICE OF PROPOSED ADOPTION OF REGULATION AND  
STATEMENT OF REASONS**

**California Code of Regulations  
Title 2, Administration  
Division 1, Administrative Personnel**

**DATE:** August 2, 2002

**TO:** ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND  
MEMBERS OF THE GOVERNOR'S CABINET

**SUBJECT:** Prison Industry Authority Demonstration Project

**AUTHORITY:**

Under the authority established in Government Code § 18701, the State Personnel Board (SPB) is proposing to adopt § 549.95 of Title 2 of the California Code of Regulations to establish a demonstration project for the Prison Industry Authority (PIA). This will allow PIA to conduct competitive examinations and make appointments to positions based on a merit process open to all persons meeting specific minimum qualifications established for individual managerial and supervisory classes (M12 and S12), using the Career Executive Assignment (CEA) selection requirements.

**REFERENCE:**

This regulation is adopted to implement, interpret, and/or make specific Government Code §§ 19600, 19605, and 19607.

**PUBLIC HEARING:**

Date and Time: September 11, 2002 from 1:30 p.m. to 2:00 p.m.

Place: Ramada Limited Old Town, Mission Room  
3900 Old Town Avenue  
San Diego, CA 92110

Purpose: To receive oral comments about this action.

**WRITTEN PUBLIC COMMENT PERIOD:**

The public comment period for written comments will close September 3, 2002, at 5:00 p.m. This is to allow time for SPB staff to provide copies of any written comments to the five-member State Personnel Board (Board) for their consideration at the time of the hearing. Any person may submit written comments about the proposed changes at

the hearing. To be considered by the Board, written comments must be received to the attention of Carol Ong at the State Personnel Board, 801 Capitol Mall, MS 55, Sacramento, CA 95814, before the close of the written comment period. During the thirty-(30) day written comment period, written comments may also be e-mailed to Carol Ong at [cong@spb.ca.gov](mailto:cong@spb.ca.gov) or faxed to (916) 653-1280.

**AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/ CONTACT PERSONS:**

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which the proposal is based are available upon request from SPB's contact person. The rulemaking file is available for review during normal business hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Please contact Carol Ong at (916) 653-1397 or TDD (916) 653-1498 for additional information regarding this action. The backup agency contact for this action is Steve Unger at the State Personnel Board, (916) 651-8461 or TDD (916) 653-1498. Questions regarding the substance of this regulation should be directed to the contact person. Questions regarding the regulatory process in conjunction with this regulation should be directed to the backup contact person.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, SPB will make the full text of the changed regulation available for at least fifteen (15) days before the date the regulation is permanently adopted.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Government Code § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act (Government Code §§ 18500 et seq.).

Government Code §§ 19600 through 19607 authorize SPB to conduct demonstration projects for a period not to exceed five (5) years, including projects which may consist of methods of: (1) establishing qualification requirements for, recruitment for, and appointment to positions; (2) classifying positions and compensating employees; (3) assigning, reassigning, or promoting employees; (4) disciplining employees; (5) providing incentives to employees, including the provision of group or individual incentive bonuses or pay; (6) establishing hours of work per day or per week; (7) involving employees, labor and employee organizations in personnel decisions; and (8) reducing overall agency staff and grade levels.

Government Code § 19602 also requires publication in the California Regulatory Notice Register, notice of the board meeting or other public hearing at which the proposed

adoption of the demonstration project will be considered and acted upon, at least thirty (30) days prior to the meeting or hearing.

**Existing Regulations**

Article 8, Subchapter 1, Chapter 1, of Division 1 in Title 2 of the California Code of Regulations provides procedures for examinations for civil service positions.

Article 10, Subchapter 1, Chapter 1, of Division 1 in Title 2 of the California Code of Regulations prescribes procedures for certifying and appointing successful examination competitors who are eligible for appointment to vacant civil service positions.

Articles 4 and 5, Subchapter 2, Chapter 1, of Division 1 in Title 2 of the California Code of Regulations provide procedures for employment lists and examinations for classifications designated as CEA.

The proposed regulation establishes a demonstration project for PIA to conduct competitive examinations and make appointments to positions based on a merit process open to all persons meeting specific minimum qualifications established for individual managerial and supervisory classes, utilizing the CEA selection requirements.

**IMPACT ON SMALL BUSINESSES:**

The proposed regulation will not impact small businesses. The proposed regulation would affect only State agencies and State employees.

**LOCAL MANDATE:**

SPB has determined that the proposed action has no mandate upon local agencies or school districts and, therefore, requires no reimbursement pursuant to Government Code § 17561.

**COST ESTIMATES OF PROPOSED ACTION:**

**Costs of Saving to State Agencies**

The proposed regulation will streamline the process for specified PIA examinations by combining evaluating and hiring interviews, resulting in potential small, though unquantifiable, savings to the department.

**Impact on Housing Costs**

The proposal will not affect housing costs.

**Costs of Savings in Federal Funding to the State**

No impact.

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**Cost Impact on Representative Private Persons or Businesses**

SPB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS:**

SPB has determined that the proposed action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**ASSESSMENT REGARDING THE EFFECT ON JOBS OR BUSINESSES:**

The proposal will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**FINAL STATEMENT OF REASONS:**

It is anticipated that the rulemaking action will be filed with the Office of Administrative Law pursuant to Government Code § 19602, under which no Final Statement of Reasons is required. If a Final Statement of Reasons is nevertheless prepared, it may be obtained from the contact person when it becomes available.

**ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE:**

The text of the proposed amendments, the Notice of Proposed Adoption of Regulations and Statement of Reasons, and, if prepared and when available for review, the Final Statement of Reasons, will be on SPB's Web site at [www.spb.ca.gov](http://www.spb.ca.gov).

**STATEMENT OF REASONS:**

Government Code § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the provisions of the Civil Service Act (Government Code §§ 18500 et seq.).

Government Code §§ 19600 through 19607 authorize SPB to conduct or supervise the conduct of demonstration projects for a period of up to five (5) years to determine whether a specified change in personnel management policies or procedures would result in improved State personnel management, as long as the demonstration projects do not conflict with the merit principles embodied in Article VII of the California Constitution.

Government Code § 19600 provides that such demonstration projects shall not be limited by lack of specific authority to take the action contemplated by any provision of the Government Code or any rule or regulation prescribed under the code which is inconsistent with the action, including those relating to the methods of establishing qualification requirements for, recruitment for, and appointment to positions; classifying positions and compensating employees; providing incentives to employees; establishing hours of work per day or per week; involving employees, labor and employee organizations in personnel decisions; and reducing overall agency staff and grade levels.

Government Code § 19602 requires SPB to describe specifically any aspect of a demonstration project for which there is a lack of specific authority and to cite any provision of law, rule, or regulation, which, if not waived, would prohibit conducting the project or part thereof.

Following are the specific Government Code sections, which, if not waived, would prohibit conducting the project or any part of the project as proposed:

§ 18900 – requires that lists shall be established as a result of competitive examinations. A waiver is needed to allow the department to conduct examinations without having to establish a traditional list.

§ 18901 – provides that earlier eligible lists take precedence over later eligible lists and requires an examination announcement to include a statement that the resultant eligible list will expire in one to four years. A waiver is needed to enable the department to make appointments as a result of an alternative position-by-position selection process that does not require the establishment of a traditional employment list.

§ 18930 – requires that examinations for managerial positions be given on an open basis and that the names of the applicants who pass the examination be placed on a list and ranked in the relative order of the score received. A waiver is needed to enable the department to conduct examinations for managerial positions without establishing a traditional list.

§ 18930.5 – provides that SPB may delegate to a department the authority to conduct examinations and create lists as a result of competitive examinations. A waiver is needed to allow the department to conduct examinations without having to establish a traditional list.

§ 18931 – provides that SPB establish minimum qualifications for determining the fairness and qualifications of employees for each class of position. A waiver is needed

to allow for the establishment of additional job-related qualifications for particular positions.

§ 18933 – requires the announcement of examinations for the establishment of eligible lists. A waiver is needed to allow the department to announce examinations without the establishment of traditional eligible lists.

§ 18938.5 – specifies that the competitor shall be notified of the results of an examination when the employment list resulting from examination has been established. A waiver is needed to allow for the establishment of notification of examination results procedures for the demonstration project even though a traditional list is not established.

§ 18950 – requires that appointments to vacant positions be made from employment lists. A waiver is needed to allow appointment to vacant positions within the demonstration project without establishing or obtaining a traditional certification list.

§ 19050 – requires all positions to be filled by appointment in strict accordance with the laws and rules prescribed in the Civil Service Act and not otherwise. A waiver is needed to allow for a position to be filled as described in this demonstration project.

§ 19052 – requires that vacancies that are not filled by transfer, demotion, or reinstatement shall be filled by requesting a certification of persons eligible for appointment. A waiver is needed to allow appointment to positions within the demonstration project without using or establishing a traditional certification list.

§ 19054.1 – provides that when an examination for a managerial position is conducted on an open and promotional basis, the names of eligibles shall be placed on one list, ranked in relative order of the examination score received and, for purposes of preference in certifying eligibles, the list shall be considered an eligible list. A waiver is needed to allow for the appointment of an eligible candidate to the managerial classes included in the demonstration project without establishing a traditional eligible list.

§ 19057.2 – provides for the scoring and ranking of eligibles for managerial classes and the certification of the three highest ranks. A waiver is needed to allow for the examination of candidates for the managerial classes included in the demonstration project to be consistent with § 548.40, pertaining to competitive examinations for CEA positions.

The proposed demonstration project will enable PIA to conduct examinations for managerial and supervisory (M12 and S12) classes on a position-specific basis

providing for an improved recruitment and selection process, better job-person matches, and create a broader candidate base for vacant positions. The traditional process for recruiting, examining, and selecting civil service employees is frequently too general and insufficiently related to the skills needed for a specific vacancy. Selection will be focused on evaluating individuals against specific, job-related criteria and will culminate with an actual hire of an individual as opposed to the traditional two-part process of establishing an employment list and conducting additional hiring interviews.

Mike Willihnganz  
Chief, Policy Division

Attachment: Text of Proposed Regulation

## Regulation Governing Demonstration Projects

For these amendments, text added to the regulation is indicated by underline.

### Title 2. ADMINISTRATION

#### Division 1. Administrative Personnel

#### Chapter 1. State Personnel Board

Subchapter 4. Demonstration Project and Performance Based Budget Pilot Project Rules (Promulgated Under Authority of Government Code Sections 11808, 18701, and 19600)

### **Article 9. Demonstration Project – Prison Industry Authority**

#### **§ 549.95. Prison Industry Authority Managerial and Supervisory Selection Demonstration Project.**

Under State Personnel Board (SPB) supervision, the Prison Industry Authority (PIA) shall conduct a demonstration project, pursuant to Government Code Sections 19600, 19605, and 19607, affecting the examination process to select candidates for positions designated M12 and S12 within PIA. During this demonstration project, the department shall conduct examinations for the above-identified classifications pursuant to the procedures in Article 4 (Section 548.30) and Article 5 (Sections 548.40 through 548.52) for Career Executive Assignments for testing purposes only, with the following exceptions:

(a) The examination announcements specified by Section 548.41 shall specify the minimum qualifications for the position as prescribed in the specific classification.

(b) The appointing power shall be governed by Section 171.1 in determining whether an applicant has completed the minimum time required by the experience component in the minimum qualifications, if any.



(c) Any eligible employee may appeal to SPB, pursuant to Section 548.49, within thirty (30) days of the date of the notification of the examination results.

(d) Examinations may be either open or promotional.

NOTE: Authority cited: Section 18701, Government Code.

Reference: Sections 19600, 19605 and 19607, Government Code.